IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR
WRIT PETITION NO. 1562/ 2004

PETITIONER

FFDA (Forum for fact finding documentation & Advocacy), Raipur (C.G.)
Through – Its President,
Subhash Mohapatra, S/o. Late Jalandhar Mohapatra, aged about 30 years, R/o. A-3 Sahani Bihar, Telibandha, Raipur (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh
Through – Secretary,
Home Department, D.K.S. Bhavan Raipur (C.G.)

2. Union of India
Through- Secretary,
Railway Department
New Delhi.

3. Chairman, Railway Board
New Delhi.

4. General Manager,
South -East Central Railway,
Bilaspur (C.G.)

5. Divisional Security Commissioner
S.E.C. Railway, Raipur (C.G.)

6. Superintendent of Police (Railway),
Raipur (C.G.)

7. Divisional Inspector,
Railway Police Force,
Raipur Division,
Raipur (C.G.)

8. Police Station Officer (Railway),
Railway Police Station,
Raipur (C.G.)

9. Superintendent of Police,
Raipur (C.G.)

10. Police Station officer,
Police Station – Gudhiyari,
Raipur (C.G.)

P. R. No. 1554 dated 17.6.04 Presented by Shri J.K. Sharma

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17.6.04
Clerk to A. G. Bilaspur

Counsel for resp. Deptt. is not available

(9) (4)

WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA.
PUBLIC INTEREST LITIGATION.

A.F.R.

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 1562 OF 2004

FFDA (Forum For Fact Finding Documentation and Advocacy), Raipur

Versus

State of Chhattisgarh and others

O R D E R

For consideration 1 -6-2005

Sd/-
Fakhruddin
Judge

Hon'ble Shri Justice V.K. Shrivastava, J

Sd/-
V.K. Shrivastava
Judge

Post for 24-6-2005

Sd/-
Fakhruddin
Judge

HIGH COURT OF CHHATTISGARH AT BILASPUR

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Versus

State of Chhattisgarh and others

CORAM:
HON'BLE SHRI JUSTICE FAKHRUDDIN AND

HON'BLE SHRI JUSTICE V.K. SHRIVASTAVA, JJ.

PETITIONER BY SMT. MEENA SHASTRI, ADVOCATE

STATE OF CHHATTISGARH BY SHRI PRAMOD VERMA, ADDL. ADVOCATE GENERAL

UNION OF INDIA BY SHRI THAKUR VIJAY SINGH, ADDL. SOLICITOR GENERAL

RAILWAY BOARD BY SHRI VINAY HARIT, SR. COUNSEL

O R D E R

Per Fakhruddin,J.

Heard learned counsel for the parties.

2. The petitioner has filed this petition on the ground that since last 10 years one Nakul Dhruv along with his wife and two minor daughters Ku. Sangeeta Dhruv aged 12 years and Ku. Gangotri aged about 4 years is residing on the railway platform. It is submitted that on 18-5-2004 at about 10.00 p.m. two persons committed rape on Ku. Gangotri at Railway Platform No. 5. After the incident, the father of the girl took her to Govt. Hospital Mekahara for treatment. It is alleged that on next day when the mother of the girl namely Indu Bai approached Railway Police Station along with her daughter and narrated the incident, the Police instead of registering the case, started asking her as to why she is residing at the platform. It is

further stated that on 29-5-2004 at about 10.00 p.m. six persons committed rape on another daughter of Nakul Dhruv namely Ku. Sangeeta Dhruv. The matter was published in the newspaper dated 7-6-2004. But even than the Police had not taken any action in the matter, therefore, the father of the girl approached to the petitioner and the petitioner has filed this petition. Prayer made in the petition is to provide food, shelter and protection to both the prosecutrix with their parents, suitable source of livelihood, free education to them. It is further prayed that the respondent no. 1 to pay compensation of Rs. 5,00,000/- to each of the prosecutrix for their sexual exploitation and harassment. It is also prayed that investigation into the matter be made by commission or any private independent agency-CBI and to punish the liable persons. Inquiry is also prayed about all the 'Aashrams' or 'Institutions' of Chhattisgarh State where the women and children are being kept, either regulated by Govt. or private organizations through appointing a commission or any independent agency taking help of the petitioner (if necessary) to prevent the offences. The petitioner has further prayed that the State to rehabilitate these rape victims and also to rehabilitate the persons who are residing on the Railway platform. The petitioner has further prayed that the State to frame a suitable and appropriate State policy on women and children and its effective implementation for the social and economic development of the above said groups. The petitioner has also prayed that the respondents No. 2 to 7 to check the offence committed on the Railway platform in Chhattisgarh State and they be also directed to lodge report and to investigate this incident properly and to punish the liable persons. The petitioner has also prayed that

State be directed to provide timely and necessary treatment to the needy patients by Government hospitals, and to punish the delinquent employees.

3. The matter came up for hearing on 18-6-2004 and this Court passed a detailed order. Thereafter offence has been registered and investigation has been started. The Additional Advocate General was directed to file the factual report of the incident. In pursuance to that direction, factual report was submitted. It is mentioned in the report that on 18-5-2004 no report was lodged in the Railway Police Station regarding the rape committed on the girl namely Gangotri. On 28-5-2004 the mother of the girl appeared before the police station and informed that the son of one Mannu Satnami aged about 4 years had inflicted injury on the private parts of Ku. Gangotri on 18-5-2004. On this, Gangotri was sent for medical examination but as per medical examination report, the case was not found to be of rape. On 7-6-2004, the father of Gangotri submitted a report to the GRP Police Station, Raipur and on the basis of that, a crime has been registered for the offence punishable under Section 324 of the Indian Penal Code and the matter is under investigation.

4. Reply in the matter has been filed.

5. So far as the alleged offence committed upon the girls is concerned, pursuant to the directions issued by this Court, the matter is under investigation.

6. Learned counsel for the petitioner submitted that the victim family has been given accommodation free of cost and Rs. 25,000/- has also been given.

7. Smt. Shastri, learned counsel for the petitioner, raised the contention that persons are residing in the Railways platform and none should be allowed to enter into the platform without valid ticket so that such offences are not committed. The Platforms are the railways property. None should be allowed to use them as dwelling places. Law in this regard is very clear. It has become a dwelling place due to the poverty.

8. So far as activities of Railways are concerned, this court has considered the matter in *In Re Union of India through South Eastern Railway* reported in *2002(1) C.G.L.J. 400* and issued certain directions. Relevant paragraph of the order is quoted below:-

> *"In view of the facts and circumstances of the matter it is directed that General Manager or such other competent/responsible officer may be deputed by Union of India to make detailed inspection of Bilaspur Railway Station and such other prominent stations of South Eastern Railway Zone like Raipur, Raigarh, Durg etc. and immediately take all such redressal steps which are permissible for removing the difficulties highlighted and which have been experienced and reiterated by the counsel and amicus curiae and also that which may be noted by visiting officer. The complete report regarding steps taken by the authorities including General Manager concerned shall be submitted to the Registrar (Judicial) of this Court within a period of two months from the date of receipt of copy of this order."*

9. This Court has also considered the matter in a petition bearing W.P. No. 1026/2002. Relevant portion of the order is quoted below:-

"So far as the movement of anti social elements is concerned, the railway stations should be equipped with short circuit video cameras for confining them within it so that they may be nabbed by the police/G.R.P. staff deputed there and necessary action may be taken against them."

10. Parliament has also taken note of this aspect and enacted the Railways (Second Amendment) Act 2003 (Act 51 of 2003). The Act confers wide powers in this regard and it has defined 'officer authorized'. Additional powers have been conferred on members of Railway Protection Force. The Railway Protection Force Act has been amended by the Railway Protection Force (Amendment) Act, 2003 (Act 52 of 2003). Now as defined under Section 2 (cb) of the R.P. Act, 'passenger Area' includes Railway Platform, train, yard and such other area as is frequently visited by passengers. Section 11 of the R.P. Act is pertinent and quoted below:-

"11. It shall be the duty of every superior officer and member of the Force-

(a) promptly to execute all orders lawfully issued to him by his superior authority;

(b) to protect and safeguard railway property, passenger area and passengers;

(c) to temove any obstruction in the movement of railway property or passenger areas; and

(d) to do any other act conducive to the better protection and security of railway property, passenger area and passengers."

11. The term 'Railway Property' now means 'Railway property, passenger area and passengers'.

12. The changes made in law will be useful if the authorities act and perform their duties in accordance with law as amended. Let a beginning be made now. The Zonal Manager/D.R.M. concerned shall look into the matter and do the needful as required and the report of

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the action taken shall be submitted to the Registrar General of this Court for perusal in Chamber.

13. Subject to what which has been stated above, this petition stands disposed of.

14. Before parting, we appreciate valuable services rendered by the learned counsel for the parties.

Sd/-
V.K. Shrivastava
Judge

Sd/-
Fakhruddin
Judge

Pathak